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Order 99-12-25



UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.

Issued by the Department of Transportation  
on the 27th day of December, 1999

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Agreement adopted by the Tariff :	
Coordinating Conferences of the :	Docket OST-99-6542 - 2
International Air Transport Association :	R-1 through R-10
relating to passenger fares :	
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ORDER

Various members of the International Air Transport Association (IATA) have filed an agreement with the Department under section 41309 of Title 49 of the United States Code (the Code) and Part 303 of the Department's regulations. The agreement was adopted at a TC123 Passenger Tariff Coordinating Conference held in Geneva during November 9-11, 1999.<sup>1/</sup>

The agreement revises existing fares between points in TC3 (Asia/Australasia/Pacific Islands) and North America (via North Atlantic routings). Changes affecting travel to/from U.S. points include respective five and fifteen percent rollbacks to previously agreed special and normal fares from Thailand to reflect levels approved and being applied in the marketplace; alignment of normal fare add-ons for travel between the U.S. and TC3 with those applicable for U.S.-Europe travel; and reestablishment of discounts for children's fare travel from India and Singapore at 67 percent of the applicable adult fare.

In addition, the agreement proposes to delete all fares to/from Bangladesh, Hong Kong SAR, Philippines, Singapore and Sri Lanka from any new area fares package adopted for effect on March 1, 2000, unless the competent aviation authorities for the above jurisdictions act by February 29, 2000, on last year's packages that were to go into effect on March 1, 1999. IATA states that these packages have been submitted for review; that the competent authorities have not acted; that as a consequence members have been unable to implement the multilateral fares in these agreements; and the fares now being applied are insufficiently high to support interline participation.

We have decided to approve the agreement, subject, where applicable, to conditions that we have previously imposed. Based on our review of the information submitted and other relevant

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<sup>1/</sup> IATA memorandum PTC123 0080, filed with the Department on November 23, 1999.

material, we conclude that the agreement, as conditioned below, will not result in fares that are unlawful or injurious to competition in the markets at issue.

Pursuant to authority assigned by the Department's Regulations, 14 CFR 385.13:

1. We do not find the following resolutions, which are incorporated in the agreement in Docket OST-99-6542 and which have direct application in foreign air transportation as defined by the Code, to be adverse to the public interest or in violation of the Code, provided that approval is subject, where applicable, to previously imposed conditions:

<u>Docket</u> <u>OST-99-6542</u>	<u>IATA</u> <u>No.</u>	<u>Title</u>	<u>Application</u>
R-1	002b	TC123 North Atlantic Special Amending Resolution from Bangladesh, Hong Kong SAR, Philippines, Singapore, Sri Lanka (Expedited)	1/2/3
R-2	002k	TC123 North Atlantic Special Amending Resolution (Expedited)	1/2/3
R-3	015n	TC123 North Atlantic USA Add-On Amounts (Expedited)	1/2/3
R-4	047m	TC123 North Atlantic Intermeditate Class Fares (Expedited)	1/2/3
R-5	057m	TC123 North Atlantic First Class Fares (Expedited)	1/2/3
R-6	067m	TC123 North Atlantic Economy Class Fares (Expedited)	1/2/3
R-7	071cc	TC123 North Atlantic Excursion Fares from South Asian Subcontinent to Canada, Mexico, USA (Expedited)	1/2/3
R-8	071p	TC123 North Atlantic Excursion Fares between Canada, Mexico, USA and South East Asia (Expedited)	1/2/3
R-9	072n	TC123 North Atlantic Excursion Fares from India, Pakistan to Canada, USA (Expedited)	1/2/3
R-10	073vv	TC123 North Atlantic APEX Fares between Canada, USA and South East Asia (Expedited)	1/2/3

2. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but

nevertheless approved on foreign policy grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Antitrust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, the conferral of antitrust immunity is mandatory under section 41308 of the Code.

Order 85-5-32 contemplates that the products of the fare and rate conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under the Code. Consequently, we will grant antitrust immunity to the agreement in Docket OST-99-6542 as set forth in finding paragraph 1 above, subject, where applicable, to the conditions imposed therein.

**ACCORDINGLY,**

We approve and grant antitrust immunity to the agreement contained in Docket OST-99-6542, as set forth in finding paragraph one above, subject, where applicable, to conditions previously imposed.

Persons entitled to petition the Department for review of this order, under 14 CFR 385.30, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Department of Transportation upon expiration of the above period, unless within such period a petition for review is filed or the Assistant Secretary for Policy and International Affairs gives notice that he will review this order on his own motion.

**By:**

Paul L. Gretch

Director, Office of International Aviation

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